

REMARKS

Claim rejections under 35 U.S.C. § 112

Applicant has made the requested changes and amended claims 1, 9, 10, 12, 14, 15, 22 and 23 to overcome the rejections to the claims.

Claim rejections under 35 U.S.C. § 103

In item 8, claims 1, 2, 4, 13-15 and 17 are rejected under 103(a) as being unpatentable over Davis in view of Rekimoto. Specifically, it is asserted that Davis teaches all elements except for the capability of determining orientation of the portable electronic appliance in three dimensions. However, it is then asserted that Rekimoto teaches a device having a sensor that is a gyro sensor capable of determining orientation of the device in three dimensions.

Regarding claims 1 and 2, applicant respectfully traverses the rejection of these claims in light of Rekimoto. The gyro sensor system of Rekimoto is **not** capable of determining orientation of the device in three dimensions. The gyro sensor is only capable of determining **a change** in orientation. In other words, Rekimoto can determine how far the orientation has changed with respect to an X, Y and Z axis, but yet it does not teach the capability, as claimed by the present invention, of determining the static orientation of the device.

To help understand this difference, consider a device of the present invention. If it is lying flat and level on a horizontal table, the present invention teaches that the sensor system of the present invention can determine that the device is flat and level and will provide this information. In contrast, the gyro sensor of Rekimoto does not know what position the device is in. The gyro sensor system only cares how much the device has been moved relative to a first orientation, **but not a first known position**.

This fundamental difference in the capabilities of the sensors goes back to the basic purpose of the sensors in their respective devices. As shown in figure 1, Rekimoto wants to be able to determine how far the device has been moved in the 3 axes in order to be able to, for example, know **how far** the a cursor should be moved as shown in figure 3. The actual orientation of the device is irrelevant to Rekimoto, because that is useless information to it. The sensor system of Rekimoto does not need to know that a first position is flat and level on a table and that it is moved in the X axis a certain amount. All Rekimoto needs to know is that it has a first position, and that the device moved relative to the X axis a certain distance. Then, for example, the cursor would be moved the corresponding distance. Rekimoto fails to teach the need or the ability to know the orientation of a device.

In distinct contrast, it is imperative for the present invention to know the orientation of the device with respect to the world around it, and to know how the orientation changes. But without knowing an initial orientation, any other information is useless to

the present invention. That is why the present invention uses a magnetic sensor system that is capable of determining how the device is oriented in the physical world around it.

Consider the example given in paragraph [0037] of the application. The device may be resting flat and level when being used as a speakerphone device. But when a user lifts it, it can be assumed that the user is moving it to an ear to listen privately, and so the device will turn off the speakerphone function and turn on the internal speaker for a private listener.

This difference in the capability of sensors is fundamental to the invention. A gyro sensor might be used to as the magnetic sensors of the present invention, **but only if initially given the initial orientation information.** In contrast, the magnetic sensors of the present invention are always able to know the orientation of the device in an absolute sense, without any initial orientation information. That is because the magnetic sensors are using the earth's magnetic field as means of obtaining this orientation information. Accordingly, the references fail to makes the invention obvious because they do not provide the same information as stated in claim. Specifically, claim 1 states that orientation is determined relative to a constant magnetic field.

Regarding claim 4, Applicant respectfully asserts that this claim is now dependent upon an allowable independent claim.

Regarding claims 13 and 14, Applicant has amended these claims identical to the manner in which claim 1 was amended, and are therefore now allowable for the same

reasons.

Regarding claims 3, 5-10, 12, 15-23 and 25, Applicant respectfully asserts that these claims are now dependent upon allowable independent claims. The addition of Smith does not teach the absolute position sensors of the present invention, and therefore the invention is still not made obvious.

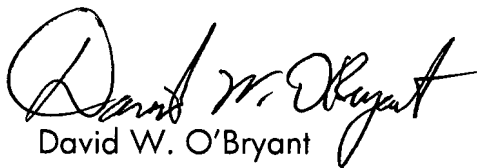
Conclusion

In light of the statements above, Applicant respectfully requests issuance of claims 1-10, 12-23 and 25. If any impediment to the allowance of these claims remains after entry of this Amendment, and such impediment could be alleviated during a telephone interview, the examiner is invited to call David W. O'Bryant at (801) 478-0071 so that such matters may be resolved as expeditiously as possible.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 50-0881.

DATED this 7th day of May, 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David W. O'Bryant", written in a cursive style.

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